

Senate Study Bill 1280

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to civil protective orders and criminal
2 no-contact orders.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2652SC 82
5 rh/je/5

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1 1 Section 1. Section 664A.1, subsection 2, Code 2007, is
1 2 amended to read as follows:
1 3 2. "Protective order" means a protective order issued
1 4 pursuant to chapter 232, a court order or court-approved
1 5 consent agreement entered pursuant to chapter 236, including a
1 6 valid foreign protective order under section 236.19,
1 7 subsection 3, a temporary or permanent protective order or
1 8 order to vacate the homestead under chapter 598, and an order
1 9 that establishes conditions of release or is a protective
1 10 order or sentencing order in a criminal prosecution arising
1 11 from a domestic abuse assault under section 708.2A, or a
1 12 restraining order issued pursuant to section 915.22.

1 13 Sec. 2. Section 664A.2, subsection 2, Code 2007, is
1 14 amended to read as follows:

1 15 2. A protective order issued in a civil proceeding shall
1 16 be issued pursuant to chapter 232, 236, ~~or~~ 598, or 915.
1 17 Punishment for a violation of a protective order shall be
1 18 imposed pursuant to section 664A.7.

1 19 Sec. 3. Section 664A.3, Code 2007, is amended by adding
1 20 the following new subsection:

1 21 NEW SUBSECTION. 1A. Notwithstanding chapters 804 and 805,
1 22 a person taken into custody pursuant to section 236.11 or
1 23 arrested pursuant to section 236.12 may be released on bail or
1 24 otherwise only after initial appearance before a magistrate as
1 25 provided in chapter 804 and the rules of criminal procedure or
1 26 section 236.11, whichever is applicable.

1 27 Sec. 4. Section 664A.5, Code 2007, is amended to read as
1 28 follows:

1 29 664A.5 MODIFICATION == ENTRY OF PERMANENT NO-CONTACT
1 30 ORDER.

1 31 If a defendant is convicted of, receives a deferred
1 32 judgment for, or pleads guilty to a public offense referred to
1 33 in section 664A.2, subsection 1, or is held in contempt for a
1 34 violation of a no-contact order issued under section 664A.3 or
1 35 for a violation of a protective order issued pursuant to
2 1 chapter 232, 236, or 598, the court shall either terminate or
2 2 modify the temporary no-contact order issued by the
2 3 magistrate. The court may enter a no-contact order or
2 4 continue the no-contact order already in effect for a period
2 5 of five years from the date the judgment is entered or the
2 6 deferred judgment is granted, regardless of whether the
2 7 defendant is placed on probation.

2 8 Sec. 5. Section 664A.6, Code 2007, is amended by adding
2 9 the following new subsection:

2 10 NEW SUBSECTION. 3. A peace officer shall not be held
2 11 civilly or criminally liable for acting pursuant to this
2 12 section provided the peace officer acts in good faith and on
2 13 probable cause and the peace officer's acts do not constitute
2 14 a willful or wanton disregard for the rights or safety of
2 15 another.

2 16 Sec. 6. Section 664A.7, subsections 3 and 4, Code 2007,
2 17 are amended to read as follows:

2 18 3. If convicted of or held in contempt for a violation of

2 19 a no-contact order or a modified no-contact order for a public
2 20 offense referred to in section 664A.2, subsection 1, or held
2 21 in contempt of a no-contact order issued during a contempt
2 22 proceeding brought pursuant to section 236.11, or if convicted
2 23 of or held in contempt for a violation of a protective order
2 24 under this chapter, the person shall be confined in the county
2 25 jail for a minimum of seven days. A jail sentence imposed
2 26 pursuant to this subsection shall be served on consecutive
2 27 days. No portion of the mandatory minimum term of confinement
2 28 imposed by this subsection shall be deferred or suspended. A
2 29 deferred judgment, deferred sentence, or suspended sentence
2 30 shall not be entered for a violation of a no-contact order, ~~or~~
2 31 modified no-contact order, or protective order and the court
2 32 shall not impose a fine in lieu of the minimum sentence,
2 33 although a fine may be imposed in addition to the minimum
2 34 sentence.

2 35 4. Violation of a no-contact order entered for the offense
3 1 or alleged offense of domestic abuse assault in violation of
3 2 section 708.2A or a violation of a protective order issued
3 3 pursuant to chapter 232, 236, ~~or~~ 598, or 915 constitutes a
3 4 public offense and is punishable as a simple misdemeanor.
3 5 Alternatively, the court may hold a person in contempt of
3 6 court for such a violation, as provided in subsection 3.

3 7 Sec. 7. Section 664A.7, Code 2007, is amended by adding
3 8 the following new subsection:

3 9 NEW SUBSECTION. 3A. If convicted or held in contempt for
3 10 a violation of a civil protective order referred to in section
3 11 664A.2, the person shall serve a jail sentence. A jail
3 12 sentence imposed pursuant to this subsection shall be served
3 13 on consecutive days. A person who is convicted of or held in
3 14 contempt for a violation of a protective order referred to in
3 15 section 664A.2 may be ordered by the court to pay the
3 16 plaintiff's attorney's fees and court costs.

3 17 Sec. 8. Section 664A.8, Code 2007, is amended to read as
3 18 follows:

3 19 664A.8 EXTENSION OF NO-CONTACT ORDER.

3 20 Upon the filing of an application by the state or by the
3 21 victim of any public offense referred to in section 664A.2,

3 22 subsection 1 which is filed within ninety days prior to the
3 23 expiration of a modified no-contact order, the court shall
3 24 modify and extend the no-contact order for an additional
3 25 period of five years, unless the court finds that the
3 26 defendant no longer poses a threat to the safety of the
3 27 victim, persons residing with the victim, or members of the
3 28 victim's family. The number of modifications extending the
3 29 no-contact order permitted by this section is not limited.

3 30 EXPLANATION

3 31 This bill relates to criminal no-contact orders and civil
3 32 protective orders.

3 33 The bill provides that a restraining order issued by a court
3 34 prohibiting the harassment or intimidation of a victim or
3 35 witness in a criminal case pursuant to Code chapter 915 shall
4 1 be included in the definition of a protective order pursuant
4 2 to Code chapter 664A, dealing with the issuance of certain
4 3 no-contact orders in a criminal case and the enforcement of
4 4 certain protective orders in a civil case. Code chapter 664A,
4 5 created in the 2006 Iowa Acts, HF 2652, consolidated certain
4 6 provisions in the Code relating to civil protective orders and
4 7 criminal no-contact orders.

4 8 The bill provides that a person taken into custody or
4 9 arrested under Code chapter 236, Iowa's domestic abuse law,
4 10 may be released on bail only after initial appearance before a
4 11 magistrate consistent with provisions under the domestic abuse
4 12 law or the rules of criminal procedure, whichever is
4 13 applicable.

4 14 The bill provides that a peace officer shall not be held
4 15 civilly or criminally liable for taking a person, who is in
4 16 violation of a no-contact order issued under Code chapter
4 17 664A, into custody provided the peace officer acts in good
4 18 faith and on probable cause and the peace officer's acts do
4 19 not constitute a willful or wanton disregard for the rights or
4 20 safety of another.

4 21 The bill specifies that a person convicted of a violation
4 22 of a no-contact order or a modified no-contact order or
4 23 convicted of or held in contempt for violation of a protective
4 24 order under Code chapter 664A shall be confined in the county
4 25 jail for a minimum period of seven days. A deferred judgment,
4 26 deferred sentence, or suspended sentence shall not be entered
4 27 for a violation of a protective order and the court shall not
4 28 impose a fine in lieu of the minimum sentence, although a fine
4 29 may be imposed in addition to the minimum sentence. Violation

4 30 of a protective order issued pursuant to Code chapter 915 is
4 31 made a public offense, punishable as a simple misdemeanor.
4 32 Alternatively, the court may hold a person in contempt of
4 33 court for such a violation under the bill pursuant to Code
4 34 chapter 664A.

4 35 The bill provides that if convicted or held in contempt for
5 1 a violation of a civil protective order issued in a civil
5 2 proceeding pursuant to Code chapter 232, 236, or 598, the
5 3 civil protective orders referred to in Code chapter 664A, the
5 4 person shall serve a jail sentence. A jail sentence imposed
5 5 pursuant to this subsection shall be served on consecutive
5 6 days. A person who is convicted of or held in contempt for a
5 7 violation of such a protective order may be ordered by the
5 8 court to pay the plaintiff's attorney's fees and court costs.

5 9 The bill provides that a victim of the crime of harassment,
5 10 stalking, sexual abuse in the first degree, sexual abuse in
5 11 the second degree, sexual abuse in the third degree, or
5 12 domestic abuse assault may file an application within 90 days
5 13 prior to the expiration of a modified no-contact order issued
5 14 in such cases to modify and extend the no-contact order for an
5 15 additional five-year period.

5 16 LSB 2652SC 82

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